

2005 DRAFTING REQUEST

Bill

Received: **09/28/2005**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **G. Spencer Coggs (608) 266-2500**

By/Representing: **David De Felice**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - day care**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Coggs@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Children left unattended in child care vehicles; penalties

Instructions:

See Attached--provide criminal penalties for leaving a child unattended in a child care vehicle.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 09/28/2005	kfollett 10/03/2005		_____ _____			S&L Crime
/1			pgreensl 10/03/2005	_____ _____	sbasford 10/03/2005	sbasford 11/04/2005	

FE Sent For:

<END>

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Original URL: <http://www.jsonline.com/news/metro/jun05/332715.asp>

Girl dies in day care van

Picked up at her home, child spent several hours in hot vehicle, West Allis police say

By NAHAL TOOSI, ADAM BERGSTROM AND GINA DUWE
ntoosi@journalsentinel.com

Posted: June 9, 2005

West Allis - On one of the warmest days of the year so far, a little girl died Thursday after being left for several hours inside a van serving a day care center, according to police and witnesses.

The 2-year-old girl was discovered in the van about 3 p.m. after her mother came to pick her up from the Come and Grow With Me Learning and Arts Center, 7601 W. Becher St.

"I rushed outside to see what was going on, and they were just yelling, 'Call the ambulance,'" Nicole Jones told WTMJ-TV (Channel 4) about the moment her daughter, Asia, was found lifeless in the van.

"I could see my daughter laying there not breathing or anything."

As paramedics tried without success to revive the girl minutes later inside an ambulance, witnesses said Jones stood anxiously nearby, begging crew members to let her in to be with her daughter.

But the toddler had already died by the time paramedics reached her, said West Allis Police Lt. Charles Padgett.

Jones told WTMJ she first became alarmed when staff at the day care told her that Asia was not there.

"That's when the teacher tells me, 'Your daughter never showed up at day care,' and I'm saying - thinking to myself - 'What? My mom gave my daughter to the van driver.'"

"So they're telling me not to panic, because I'm just thinking the worst, like either she's been kidnapped or anything horrible can happen to her because she's 2 and she can't protect herself."

The driver of the van, a male employee of the day care center, voluntarily came to the Police Department and was being questioned late Thursday, Padgett said. The lieutenant said the girl had been picked up from her home between 7 and 7:30 a.m.

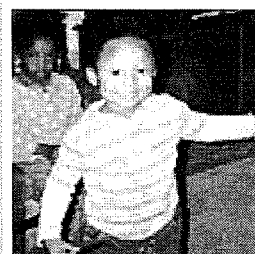
Karen Smith said she was walking by the center when a woman ran out of the building along with some of the workers.

The woman was "yelling, 'Where is my kid? Where is my kid? You had my kid since 7. You're telling me you don't know where my kid is at?'" Smith recalled. The search quickly ended at the van.

"When they opened the van, you could tell the baby was gone," said Smith, 44, an employment research specialist.

Daycare Death

Asia Jones



Asia Jones died Thursday in a closed van outside a West Allis day care center.

Nicole Jones



Nicole Jones in an image from a WTMJ-TV interview. She is the mother of Asia Jones, who died Thursday in a van outside a day care center.



Photo/Jack Orton

Raeleen Armbruster, who lives around the corner, said she pulled up to her home about the same time paramedics arrived. She said the child's body was limp, and her mother was hysterical. Once the paramedics took the child inside their vehicle, the mother stood behind it, jumping up and down, at times on the bumper, and banging on the window to be allowed inside, Armbruster said.

"I'm a parent, and I can't understand how this child was left all day," Armbruster said.

By midmorning, 81 degrees

The weather turned warm early Thursday under partly sunny skies. It was already 74 by the time the child was picked up around 7 a.m., and the temperature had reached the day's high of 81 by 10 a.m. before dropping to the mid-70s later in the afternoon, according to the National Weather Service. At 3 p.m. it was 75 degrees.

Padgett said the police measured the temperature in the dark red, 15-passenger Ford van but he did not have results available. The van's windows had been closed. Temperatures in a closed vehicle can climb quickly to dangerous levels on hot days.

While the heat is a likely factor, and the child did not appear to have other injuries, Padgett said the cause of death was still under investigation late Thursday.

"It's open-ended. We don't want to assume anything," he said.

The vehicle was towed away around 5:25 p.m.

The day care center was issued an occupancy permit in August 2003, said Ted Atkinson, the city's building inspector. He said the building used to be a funeral home but was closed for a number of years before the first floor was converted into the day care operation. Atkinson said the manager, listed as Shontina Gladney, applied recently to open another day care center at 5401 W. Burnham St.

State will investigate

Day care officials declined to allow reporters inside or offer a statement. Padgett said the state licensing bureau and child welfare officials are expected to talk to the day care owners in the near future.

Some parents who stopped by to pick up their children Thursday evening said they had never had problems with the center.

West Allis resident Kelly De Hoyos, 27, has been taking her four children to the day care center for about two years. She had been thinking about signing up for the van service before Thursday, but may not now.

She said she felt bad for the van driver but that he had responsibilities. "That was his job," she said. "If you have 10 kids in a van, you'd better make sure 10 kids get out of that van."

De Hoyos said the day care center asks parents to call if their children are staying home for the day. On the few occasions she forgot to call, the day care center called her at work to check on her children. She also said day care workers are planning to bring in a counselor to talk to the children about the tragedy. As of Thursday evening, the center planned to be open today, she said.

José Reynolds of Milwaukee, who sends two children to the day care, said the workers were very kind and that his family had had a good experience with the establishment. Reynolds, 25, said he'd be "very disappointed" if the day care was shut down as a result, but said the van driver should "have to go."

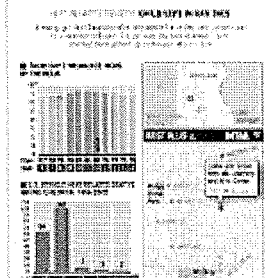
West Allis police and a man believed to be a friend of the victim's family wait for the van to be towed from the Come and Grow With Me Learning and Arts Center, 7601 W. Becher St.



Photo/Jack Orton

Kael Lampe (left), Justine Jamke, 8, and Lampe's daughter, Winter, 10, place flowers, a cross and a teddy bear near the playground of the day care center after learning of the tragedy Thursday afternoon. "I had to come," Lampe said.

Heat-Related Tragedy



Child Left in Van Dies

Related Coverage

Today's TMJ4: 10 p.m. newscast

Deaths likely underreported

Since 1996, at least 228 children have died in hot, unattended vehicles in the United States, according to research done by General Motors Corp. But the automaker's report said the actual number of fatalities is probably much higher.

At least 22 children who have died from being left in hot vehicles since 1995 were left in those vehicles by child care providers or van drivers, according to a separate study published this year in Injury Prevention magazine. And 32 children who died were left in cars by family members who intended to take the children to day care but forgot about them and went to work instead, the study said.

That's what happened in October 2003 in Middleton, when an 8-month-old girl died after her mother left her in a parked car for more than eight hours. The mother forgot to take the child to day care and went to work, leaving the baby strapped in a car seat. Temperatures in the car may have reached 110 degrees, authorities said.

In June 1997, an 11-month-old boy from Kenosha County died after being left in a car for more than an hour when the outside temperature was 88 degrees. One month earlier, a 1-year-old Milwaukee boy died after being left in a car all day while his mother was working.

Bystanders emotional

On Thursday, a crowd of onlookers gathered across the street from the day care center, which is one of two day care establishments on its side of the small block. Some of the passers-by grew emotional when they found out what happened. One woman loudly questioned whether day care workers had taken attendance or called the child's mother when they realized the child wasn't there. Two grandparents stopped by to see if it was their grandchild who had died.

Sarah Vershowske, 20, heard about the death and stopped by the center to place a pink teddy bear in front of a fence that borders a small playground on one side of the center. As the evening wore on, the memorial grew to include flowers, a balloon, a cross made of yarn and more stuffed animals. One young girl used wood chips to spell out "God Bless" on the sidewalk.

"It doesn't matter who this kid was," Vershowske said. "It was a life that should have been."

Georgia Pabst and Annysa Johnson of the Journal Sentinel staff contributed to this article.

From the June 10, 2005, editions of the Milwaukee Journal Sentinel
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Lawmakers look at ways to prevent heat deaths in vehicles

By JULIET WILLIAMS

Associated Press Writer

Published June 10, 2005

MILWAUKEE (AP) - The state suspended a day care center's license and a man was arrested Friday in the death of a 2-year-old girl who apparently was left for hours in a van on a hot, muggy day.

Asia Jones was the second child to die this week in a day care center van, and a third child remained hospitalized in Florida after being found severely dehydrated in a day care van. Some lawmakers already are proposing changes to try to prevent similar tragedies.

Asia was found dead around 3 p.m. Thursday when her mother arrived at the Come and Grow With Me Learning and Arts Center in West Allis, and workers could not find the Milwaukee girl. Police say the girl may have been in the van since 7 a.m., when the driver picked her up.

Police arrested the 35-year-old driver and were seeking a charge of second-degree reckless homicide.

"Somebody didn't do their job," said Janette Fennell, founder and president of Kids And Cars, a national group that tracks deaths of children in and around vehicles.

State transportation law requires day care centers to keep a log of the children scheduled for pickup in their vehicles and at the facilities.

Asia was the fourth toddler to die this year after being left in a hot vehicle, and 35 children died in hot cars last year, Fennell said. She said many of the deaths are preventable with new technology that can warn parents and workers to check on kids.

In Arkansas, a new law requires day care vans to have child-safety alarms that force drivers to walk to the rear of the vans after they turn off the engine. Drivers would have 1 { minutes to press a buzzer in the back of the vehicle to prevent a car alarm from sounding. Tennessee passed a similar law last year.

"It's a reminder to go in and check the whole bus. It should be a habit, it should be a part of the daily routine," Fennell said.

State Rep. Peggy Krusick, D-Milwaukee, was investigating similar legislation Friday and said she planned to talk with child care advocates about a possible bill that would force schools and day care centers to contact parents when a child is absent without notification.

"It comes down to communicating between the child care provider and the family. I think that would be an important step to ensure the safety of all children being cared for in a care setting," Krusick said.

Arkansas' buzzer law wasn't in place soon enough to prevent the death this week of a 3-year-old boy in Little Rock, who was left in a day care center van for hours while the temperature was in the 90s. The driver, who parked the van in his driveway after skipping the boy's stop, was charged with manslaughter.

A 3-year-old Florida boy remained hospitalized Friday after being left in a day care van for hours after a field trip. State officials shut down the day care and three workers were charged with child neglect.

Parents of two other children who died in separate incidents in May also are charged.

Last month, U.S. Rep. Peter King, R-New York, proposed federal legislation that would require car manufacturers to install alarm systems that would go off if a passenger remained in one of the rear seats after the engine was shut off. The bill also would require federal officials to track deaths and injuries in and around vehicles.

Another device invented by three NASA researchers using jet technology lets a parent know when a child is left in a car seat, by sounding an alarm on a key chain if there is still weight in the seat after they get out.

In West Allis, Wisconsin's Department of Health and Family Services, which licenses day cares, shut down the center Friday until further notice, spokeswoman Stephanie Marquis said. She said the center has operated since October 2003 and has had only a few minor violations. No one answered the phone Friday at Come and Grow With Me.

Police said Friday night that the Milwaukee County medical examiner's office concluded the child died from heat-related hyperthermia.

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JUL 07 2005

Original URL: <http://www.jsonline.com/news/metro/jul05/339177.asp>

Day care license revoked

Girl's death in West Allis center's van prompts new policies on tracking kids

By ANNYSJA JOHNSON

anjohanson@journalsentinel.com

Posted: July 6, 2005

The state on Wednesday revoked the license of the West Allis day care center where a 2-year-old girl died in a sweltering van last month and ordered all centers in Wisconsin to update their policies in an effort to ensure it doesn't happen again.

The state Department of Health and Family Services revoked the license of Shontina Gladney, who owns Come and Grow With Me Learning and Arts Center, saying she and van driver Ronald Turkvan "committed substantial violations" of the state's day care licensing rules.

In addition, the state gave all group day care centers until Aug. 15 to adopt written policies requiring them to notify a parent or guardian if a child is absent without notification and to track all children being transported, from the time they're picked up until they're delivered to the responsible caregiver.

"The point here is that under Wisconsin rules, the day care provider is responsible for a child from the time he is picked up until he is delivered back to the parent or responsible person," said Burnie Bridge, administrator for the agency's Division of Children and Family Services.

"This was a preventable tragedy. And under state (administrative) law, the responsibility rests with the day care provider," Bridge said.

Asia Jones died of hyperthermia June 9. She was found dead in the van outside the center at 7601 W. Becher St.

According to police, Turkvan forgot Asia, and center staff made no effort to determine why she had not arrived that day.

The Milwaukee County district attorney's office is reviewing the case for possible criminal charges.

The state's investigation found Gladney and Turkvan violated several provisions of the state's licensing rules by, among other things, leaving a child unattended in a vehicle and failing to wait until the children enter the building or are in the custody of a parent-designated adult.

Though Gladney's own policies required Turkvan to track the times children get on and off the van, it said, she failed to review his job performance to ensure he was following that procedure.


Gladney has 10 days to appeal the revocation. If it is affirmed, she would be stripped of her license indefinitely, but she could reapply for a new one after two years, Bridge said.


Gladney could not be reached for comment Wednesday.


Asia's mother, Nicole Jones, did not immediately return a telephone call seeking comment Wednesday. Many child care


Child's Death at Day Care


Recent Coverage

 7/4/05: Van death a tragedy, but was it a crime?

 6/10/05: Driver arrested in girl's death

 6/10/05: Nichols: Day care looks a lot like any other

 6/9/05: Girl dies in day care van

 6/9/05: Video - TMJ4 interview with mother

Donations

Contributions can be made to: Asia G. Memorial Fund, c/o Tri State Bank, 10909 W Greenfield Ave., West Allis, WI 53214

facilities already follow variations of those procedures, but the new state mandate will be an adjustment for some, center directors contacted Wednesday said.

At Carpenter's Shop Christian Day Care Center, 819 E. Silver Spring Drive in Whitefish Bay, the driver must check off the names of children as they enter the van and personally deliver them to the classroom when they arrive, director Cindy LaRoque said.

But the notification requirement will be a change.

"We used to do that, but a lot of parents said it was a waste of time," she said.

The YMCA of Metropolitan Milwaukee follows a similar transportation policy, but like Carpenter's Shop, is does not routinely call parents whose children don't show up.

"If that's something we need to do, then we'll do it," YMCA spokeswoman Sara Luke said. "That would certainly require some extra time for us. But I guess you can't assume anything when you're caring for children."

From the July 7, 2005, editions of the Milwaukee Journal Sentinel
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State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Helene Nelson, Secretary

June 27, 2005

The Honorable Peggy Krusick
State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Representative Krusick:

Thank you for your letter regarding the tragic and preventable death of young Asia Jones. The Department of Health and Family Services is committed to protecting the health, safety and well-being of children. When tragedies like this occur we are committed to doing whatever we can to prevent similar situations.

The license of Come and Grow With Me Learning and Arts Center was summarily suspended immediately after the Department was notified of Asia's death and the program remains closed until the full investigation is completed. The Department is awaiting the final report from the police department at which time the investigation will be concluded and an official determination will be made about the status of the license to operate. Our preliminary findings indicate that several child care licensing rule violations will be cited as a result of our investigation.

In the aftermath of this tragedy, the Department is reviewing the current licensing rules which were recently revised and went into effect on March 1, 2005. The licensing rules for child care centers include many provisions designed to promote the health, safety and welfare of children in child care settings. The Department has a rule that requires centers to have and implement a procedure that ensures that a person who is assigned to care for a child knows the whereabouts of each child at all times. The Department also requires that all centers develop and implement policies and procedures that address the transportation of children in care.

The Department will be notifying all licensed centers of new requirements for transportation policies. These new requirements will include provisions in the center's transportation policies to ensure that all children who are transported by the center are accounted for at all times. This plan might include a procedure whereby van drivers and staff accepting children at the center convene for the purpose of comparing lists of arrival/departure times from the time children are picked up, transported to the center and signed in to the appropriate classrooms. Centers will also be instructed to develop a plan to ensure that all children are removed from a vehicle when the vehicle has reached its destination through a physical walk through of the van by the driver or through the use of an alarm system requiring the driver to disable the alarm at the rear of the van. An

Wisconsin.gov

The Honorable Peggy Krusick

Page 2

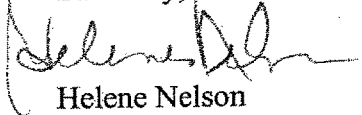
June 27, 2005

additional provision to the transportation policy may include the requirement for the center to notify the parent or guardian when children are absent from the child care center without notification.

The Department can implement these additional provisions in the centers' required policies immediately without legislative action or a revision to the child care administrative rules. You can be assured that the Department will continue to be vigilant in our review of the licensing rules affecting child care centers.

Thank you for your commitment to protecting Wisconsin's children.

Sincerely,

A handwritten signature in dark ink, appearing to read "Helene Nelson", is written over the printed name.

Helene Nelson
Secretary

Driver not charged in girl's death

By BOB PURVIS
bpurvis@journalsentinel.com

A driver arrested after leaving a 2-year-old girl to die in a sweltering day care van in June will not be charged, Milwaukee County District Attorney E. Michael McCann announced Tuesday.

The district attorney's office had struggled since Asia Jones died June 9 of hyperthermia

DA can't meet burden of proof in day care case

outside the Come and Grow with Me Learning and Arts Center in West Allis to determine if, by forgetting to remove the girl from the van, driver Ronald Turkvan had committed a crime.

The district attorney considered charging Turkvan with

three crimes: neglecting a child with death as a consequence; second-degree reckless homicide; and physical abuse of a child causing great bodily harm, McCann said.

By early July, McCann had already rejected the charge of second-degree reckless homicide

police initially sought against Turkvan, saying the burden of proof is too great.

In the end the district attorney couldn't prove Turkvan demonstrated conscious disregard when he forgot her in the back of the van, a key element the state must prove in the oth-

er two charges, McCann said.

"All of those statutes in effect require a conscious disregard," McCann said. "It's a great tragedy, and I think it's terrible that we can't do anything about it."

Asia's family was notified Friday of the decision, McCann said.

Please see DRIVER, 7B

Day care worker won't be charged in death

DRIVER, From 1B

Another snag in trying to charge Turkvan was that there are essentially no national, state or local procedural standards that require a driver to make sure everyone is out of the van after every stop.

Because Wisconsin's child-care regulations do not require drivers to sign children on and off vehicles, McCann said, prosecutors pored over the company's training and policy manuals and researched industry practices to determine whether Asia's day care should have known to do so.

In the end they found just a single day-care center in Milwaukee that had a written requirement to do that.

The case brings to light a serious problem in Wisconsin child care, where drivers at child-care centers need a driver's license but no additional child-care training, McCann said.

"Absolutely, that should be required," McCann said.

Attempts to reach Asia's family at home and by phone were unsuccessful Tuesday.

Turkvan picked up the girl about 7:30 a.m. on a trip in which he picked up several other children, whom he dropped off at the day care before punching out shortly after 8:30 a.m., according to a Milwaukee County medical examiner's report.

After returning to the day care for his afternoon rounds



FAMILY PHOTO

Asia Jones, here with her mother, died June 9 from hyperthermia.

shortly before 3 p.m., Turkvan drove to Horace Mann Elementary School in West Allis to pick up another child before returning to the center, all with Asia still in a back seat.

Turkvan was flagged down by the center's owner, Duane Gladney, as he returned to the center. The two then discovered Asia in the car seat, the report says.

According to the autopsy, Asia died of hyperthermia — her organs essentially shut down as her body temperature spiked in the hot car, explained Milwaukee County Medical Examiner Jeffrey Jentzen.

The medical examiner's report said temperatures that day rose to a high of 85 degrees, and

it estimated that the internal temperature of the van would have been 43 degrees higher than the outside temperature if it was parked for an hour.

After Asia's death, the state Department of Health and Family Services revoked the license of day-care operator Shontina Gladney, saying she and Turkvan "committed substantial violations" of the state's day care licensing rules.

In addition, the state gave all group day care centers until Aug. 15 to adopt written policies requiring them to notify a parent or guardian if a child is absent without notification and to track all children being transported, from the time they're picked up until they're delivered to the responsible caregiver.

State Sen. Spencer Coggs (D-Milwaukee) is drafting legislation to require alarm systems in child-care fleets that require drivers to pass each passenger seat to turn the alarm off and ensure each child is accounted for.

The bill could be assigned to committee by the end of the week, Coggs said.

"The DA's office didn't think they could prove the driver intentionally contributed to the neglect, yet an innocent child dies, and so that says to me that there is even more of an importance to get this passed so we can take human error out of the equation," Coggs said upon learning of McCann's decision.

MIKE:
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"WRITTEN POLICIES"

SB 344



Jim Doyle
Governor

Helene Nelson
Secretary

State of Wisconsin

Department of Health and Family Services

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MADISON WI 53708-8916

Telephone: 608-267-3905
FAX: 608-266-6836
dhfs.wisconsin.gov

July 6, 2005

BRL GCC Memo-2005-03

To: Group Child Care Centers

From: Jill Chase, Director 
Bureau of Regulation and Licensing

RE: Requirements for Written Policies on the Transportation of Children

Under Wisconsin's Administrative Code, children may never be left unattended in a vehicle. In order to prevent tragedies like the recent death of a young toddler left in a van and to ensure that children are transported safely, you are now required to develop written policies as outlined in HFS 46.

Currently, you are required to ensure all child care workers know the children assigned to their care and their whereabouts at all times [HFS 46.04(2)(i)8]. Further, HFS 46.08(2)(a) and HFS 46.08(5)(c) states that a center is responsible for a child between the time the child is picked up until the child reaches his/her destination and that after transporting a child to his/her destination, an adult shall wait until the child enters the building or is in the custody of the adult.

All written policies must be in place by **August 15, 2005** and submitted to your licensing specialist by the next license continuation date along with any other revisions and a copy of the CFS-2048, Group Child Care Center Policy Checklist. Please ensure that your written policies include the following:

1. a procedure in the orientation policy to notify a parent or guardian when children are absent from the child care center without notification; and
2. if you transport children or contract for transportation services, written procedures in your orientation policy that track children and ensure that the whereabouts of children being transported are documented from the time a child is picked up until that child is relinquished to the responsible caregiver.

You may decide which procedures will work best for your child care center. For example, you may require the driver to use a check-off list documenting the times a child has been picked up and dropped off. You may want to require the driver to review that check-off list with another center staff member who will confirm that all children are accounted for and that all children have safely exited the vehicle. You may also want to require the driver to include a physical walk through of the vehicle to check

all seats or require the use of an alarm system requiring the driver to disable the alarm at the rear of the vehicle. You may implement one or all of these options.

As always, you must continue to ensure that all staff meet other supervision and transportation regulations such as: checking the drivers' license and driving record of center drivers, properly restraining children in car safety seats and meeting safety risk reduction procedures issued by the National Traffic Safety Administration to not transport more than 10 persons total in 15 passenger vans. *

Failure to meet all supervision and transportation rules that protect the health, safety and welfare of children in care may affect your ability to transport children or may result in sanctions and/or penalties up to, and including, revocation of your child care center license.

Please contact your licensing specialist if you have any questions about these requirements. Thank you for your efforts to protect the health, safety and welfare of children in your care.

* Attachment: Use of 10 + Passenger Vans to Transport Children



Jim Doyle
Governor

Helene Nelson
Secretary

State of Wisconsin

Department of Health and Family Services

July 25, 2005

BRL FCC Memo-2005-05

To: Family Child Care Centers

From: Jill Chase, Director
Bureau of Regulation and Licensing

RE: Requirements for Written Policies

In order to prevent tragedies like the recent death of a young toddler left in a van and to ensure that children are transported safely, you are now required to develop written policies as outlined in HFS 45.

All family child care centers must develop and implement written policies that address the items below. These policies and procedures must be in place by **September 1, 2005** and submitted to your licensing specialist along with the policy revisions required by the revisions to HFS 45. If you have already submitted the policy revisions to your licensing specialist prior to the receipt of this memo, please submit the required revisions at the next license continuation date. Please ensure that your written policies include the following:

1. a procedure to notify a parent or guardian when children are absent from the family child care center without notification as part of the policy on child and provider absence required under HFS 45.04(2)(e)3.; and
2. if you transport children or contract for transportation services, written procedures in your transportation of children policy under HFS 45.04(2)(e)8., that track children and ensure that the whereabouts of children being transported are documented from the time a child is picked up until that child is relinquished to the responsible caregiver.

You may decide which procedures will work best for your child care center. For example, you may require the driver to use a check-off list documenting the times a child has been picked up and dropped off. You may want to require the driver to review that check-off list with a provider who will confirm that all children are accounted for and that all children have safely exited the vehicle. You may also want to require the driver to include a physical walk through of the vehicle to check all seats or require the use of an alarm system requiring the driver to disable the alarm at the rear of the vehicle. You may implement one or all of these options.

Under Wisconsin's Administrative Code, children may never be left unattended in a vehicle. Children must be properly seated in a car safety seat if they are under 4 years of age or 40 pounds. Children older than 4 years of age or who weigh more than 40 pounds may be restrained in a seat belt, although the current recommendation from the National Highway Traffic Safety Administration (NHTSA) is that all children under age 8 should be in a car safety seat or booster seat to ensure their safety. HFS 45.08 (6)(b) states that children under the age of 13 may not ride in the front seat of a vehicle. All vehicles used to transport children must be inspected at least 1 time each year to ensure its safe operating condition.

The person who will be driving the vehicle must have a caregiver background check and a copy of the person's driving record must be on file at the center. If a driver has had any violations related to transportation, the center should review the circumstances of the violations closely to determine whether the person can safely transport children.

Most family child care centers do not utilize 10+ passenger vans to transport children. But, if these larger vans are used to transport children you must be aware of and follow the safety risk reduction procedures issued by the National Highway Traffic Safety Administration.*

Failure to meet all supervision and transportation rules that protect the health, safety and welfare of children in care may affect your ability to transport children or may result in sanctions and/or penalties up to, and including, revocation of your family child care license.

Please contact your licensing specialist if you have any questions about these requirements. Thank you for your efforts to protect the health, safety and welfare of children in your care.

* Attachment: Use of 10+ Passenger Vans to Transport Children to and from Schools



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3750/2

GMM...

DNOTE

Week of 10/3

Gen

- 1 AN ACT ...; relating to: prohibiting a person responsible for a child's welfare while
2 the child is being transported in a child care vehicle from leaving the child
3 unattended and providing penalties.

Analysis by the Legislative Reference Bureau

Under current Department of Health and Family Services (DHFS) and Department of Workforce Development (DWD) administrative rules, a child may not be left unattended in a vehicle that is used to transport children to or from a day care center that is licensed by DHFS, a day care provider that is certified according to standards adopted by DWD, or a day care program that is established or contracted for by a school board (child care provider).

This bill prohibits a person responsible for a child's welfare while the child is being transported in a child care vehicle, which is defined in the bill as a vehicle that is owned or leased by a child care provider or a contractor of a child care provider and that is used to transport children to and from the child care provider, from leaving the child unattended at any time from the time the child is placed in the care of that person to the time the child is placed in the care of another person responsible for the welfare of the child. Under the bill, any person responsible for a child's welfare while the child is being transported in a child care vehicle who leaves the child unattended in violation of the bill may be fined not more than \$1,000 or imprisoned for not more than one year in the county jail or both or, if death is a consequence, may be fined not more than \$25,000 or imprisoned for not more than 10 years or both.

fen Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 48.659 of the statutes is created to read:

48.659 Child unattended in child care vehicle. (1) DEFINITIONS. In this section:

(a) “Child care provider” means a day care center that is licensed under s. 48.65 (1), a day care provider that is certified under s. 48.65[✓]1, or a day care program that is established or contracted for under s. 120.13[✓] (14).

(b) “Child care vehicle” means a vehicle that is owned or leased by a child care provider or a contractor of a child care provider and that is used to transport children to and from the child care provider.

(c) “Person responsible for the child’s welfare” has the meaning given in s. 948.01 (3).

(2) NO CHILD LEFT UNATTENDED. (a) No person responsible for a child's welfare while the child is being transported in a child care vehicle may leave the child unattended at any time from the time the child is placed in the care of that person to the time the child is placed in the care of another person responsible for the child's welfare.

(b) In addition to the sanctions and penalties specified in s. 48.715, any person who violates par. (a) may be fined not more than \$1,000 or imprisoned for not more than one year in the county jail or both or, if death is a consequence, may be fined not more than \$25,000 or imprisoned for not more than 10 years or both.

(END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3750/1dn

GMM...

Date

Senator Coggs:

The penalty provided in this bill for leaving a child unattended in a child care vehicle, if death is a consequence, is equivalent to the penalty for a Class G felony, which is the penalty for homicide by negligent operation of a vehicle.

Gordon M. Malaise
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3750/1dn
GMM:kjf:pg

October 3, 2005

Senator Coggs:

The penalty provided in this bill for leaving a child unattended in a child care vehicle, if death is a consequence, is equivalent to the penalty for a Class G felony, which is the penalty for homicide by negligent operation of a vehicle.

Gordon M. Malaise
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Basford, Sarah

From: de Felice, David Patrick
Sent: Friday, November 04, 2005 9:37 AM
To: LRB.Legal
Subject: Jacket LRB 3750

Please jacket LRB 3750.

Thank you,

Dave de Felice
Office of Sen. Coggs
608-266-2500 phone
608-282-3546 fax